



**U.S. Department of Justice** *CORRESPONDENCE*

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May 29, 2007

The Honorable Susan Oki Mollway  
United States District Judge  
300 Ala Moana Blvd.  
Honolulu, HI 96850

Re: USA v. Garibaldi, USDC-Hawaii Civil No. 07-0224SOM &  
Cr. No. 03-0111SOM (28 U.S.C. 2255 action).

Dear Judge Mollway:

Defendant Garibaldi has filed a petition pursuant to 28 U.S.C. 2255 which alleges ineffective assistance of counsel on the part of his trial counsel, David Klein, Esq. This Court has previously signed that "Order Waiving Defendant's Attorney-Client Privilege with Respect to the Instant 2255 Proceedings", a copy of which has been forwarded to Mr. Klein. This Court has also scheduled a hearing on the petition for August 20, 2007 at 9:00 a.m.

In response to my voice mail message left last week, Mr. Klein telephonically contacted me this morning. After retrieving his files from archived storage, Mr. Klein agreed to submit to me, by June 22, 2007, his Declaration concerning the allegations raised in the 2255 petition. Upon receipt thereof, I propose to move under Rule 7, 2255 Rules, to expand the record to include Mr. Klein's Declaration and to have my responsive memorandum rely, in part, thereon.

This Court has previously indicated that my responsive memorandum should be due today. However, based upon the foregoing, I request that my responsive memorandum's filing deadline be extended until July 13, 2007.

MAY 29 2007

If you have any questions, please contact me at 440-9220.

Very Truly Yours,

EDWARD H. KUBO, JR.  
United States Attorney

By Michael K. Kawahara  
MICHAEL K. KAWAHARA  
Assistant U.S. Attorney

cc: Mario Garibaldi-Lopez  
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Petitioner Pro Se

David Klein, Esq.